

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action dated July 27, 2005. Claims 1-25 are pending and stand rejected. Applicants amended Claims 1, 9, 12, 17, and 25. For the reasons provided below, Applicants respectfully traverse these rejections and the assertions and holdings therein and submit that the pending claims are allowable over the current rejections. Therefore, Applicants respectfully request reconsideration and favorable action in this case.

Section 101 Rejections

The Office Action rejects Claims 9-16 under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. While Applicants respectfully disagree with and traverse these rejections, Applicants amend Claim 9 to recite “Software comprising executable instructions stored on a machine-readable medium.” Accordingly, Applicants respectfully withdraw of this rejection.

Section 102 Rejections

The Office Action rejects Claims 1, 4-9, 12-17, and 20-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,816,898 (“*Scarpelli*”). However, Applicants submit that *Scarpelli* merely teaches dumb agents that rely on a script-based program to monitor and collect data and, thus, fails to teach or suggest various aspects of the present claims.

For instance, independent Claim 1 recites, in part, “selecting one of a plurality of agent templates based on the associated device class of the selected network device, the agent template comprising a class definition.” The Office Action equates the script-based program of *Scarpelli* with the “agent” recited by Claim 1. But the script-based program does not include a class definition and, thus, is not instantiated based on a class definition. In particular, *Scarpelli* teaches that the “the script can be in any shell script language, PERL, or any similar program language. Alternatively, an executable of the script-based program could be used.” *Scarpelli*, 7:18-21. Accordingly, *Scarpelli* fails to teach or suggest an agent template comprising a class definition.

Further, the script-based program is not selected “based on the associated device class of the selected network device.” In fact, the script-based program is only associated with a device class after a user has selected the script-based program and provided additional information. As more specifically taught in *Scarpelli*, the administrator provides this additional information (e.g., types, names, IP addresses) only after the script-based program is copied for use with a particular network device. *See id.*, 7:23-24. For example, the script-based program in *Scarpelli* may be used locally by the network monitoring and management system or remotely by an agent running on the network device. In the case that a remote agent is used in network monitoring, *Scarpelli* teaches that an administrator copies the script-based program into a directory on the remote device. *See id.*, 8:39-41. After the script is copied onto the remote device, the script-based program is registered with the network monitoring and management system. *See id.*, 8:44-46. Only after registration does the administrator provide the additional information that the script-based program may use in connection with the device such as name, type, inputs and outputs of the new service monitor, and others. *See id.*, 8:49-52; 7:23-27. Put simply, *Scarpelli* teaches associating the script-based program with the class of the network device after registration with the network monitoring and management system. *See id.* Thus, *Scarpelli* fails to teach or suggest selecting an agent template based on an associated device class. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1 and its dependents.

Independent Claims 9, 17, and 25 include certain analogous aspects to Claim 1 discussed above. Therefore, these claims are allowable for reasons analogous to those discussed above in connection with Claim 1. Claims 12-16 and 20-24 each depend from one of independent Claims 9 and 17 and are thus also patentable over the current rejections.

Section 103 Rejections

Claims 2, 3, 10, 11, 18, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Scarpelli* in view of U.S. Patent No. 6,795,403 (“*Gundavelli*”). Each of these depend from one of independent Claims 1, 9, and 17. As discussed above, independent Claims 1, 9, and 17 are allowable over *Scarpelli*. The Office Action fails to cite any teaching or suggestion in *Gundavelli* involving the missing elements discussed above. Therefore, Claims 2,

Applicant : Billy Keefer, et al.
Serial No. : 10/759,705
Filed : January 15, 2004
Page : 11 of 12

Attorney's Docket No.: 17646-112001 / 20000244

3, 10, 11, 18, and 19 are allowable at least because they depend from one of allowable Claims 1, 9, and 17. Thus, Applicants respectfully request that these rejections be withdrawn.

Information Disclosure Statement

The Information Disclosure Statement submitted by Applicants on April 26, 2005 was not returned with the present Office Action. Applicant has included a copy of the Form PTO-1449, and requests the references thereon be initialed and the Form PTO-1449 be returned.

Applicant : Billy Keefer, et al.
Serial No. : 10/759,705
Filed : January 15, 2004
Page : 12 of 12

Attorney's Docket No.: 17646-112001 / 20000244

CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all Claims. In addition, Applicants have included an Information Disclosure Statement.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fees are believed to be due at this time. However, please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

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